

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-4575

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MICHAEL ANTHONY SPENCER, a/k/a Jamaican Mike,
a/k/a Martin Cabral Cole,

Defendant - Appellant.

Appeal from the United States District Court for the Northern
District of West Virginia, at Martinsburg. W. Craig Broadwater,
District Judge. (CR-01-25)

Submitted: July 30, 2003

Decided: October 10, 2003

Before WILKINSON, LUTTIG, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

David Allen Downes, Front Royal, Virginia, for Appellant. Thomas
Oliver Mucklow, Assistant United States Attorney, Martinsburg, West
Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Michael Anthony Spencer seeks to appeal his sentence of 170 months' imprisonment imposed pursuant to a guilty plea and written plea agreement to distribution of crack cocaine within 1000 feet of a school, in violation of 21 U.S.C. §§ 841(a)(1), 860 (2000). Spencer's counsel filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), alleging sentencing issues, but stating that in his view, the issues were not meritorious. Spencer has filed a pro se supplemental brief challenging his sentence.

The Government has filed a motion to dismiss the appeal based on Spencer's waiver of the right to appeal his sentence contained in his plea agreement. We grant the Government's motion to dismiss because Spencer validly waived his right to appeal his sentence, and the only issues raised on appeal challenge Spencer's sentence. We deny Spencer's motion for new counsel.

In accordance with Anders, we have reviewed the entire record in this case and have found no meritorious issues for appeal. This court requires that counsel inform his client, in writing, of his right to petition the Supreme Court of the United States for further review. If the client requests that a petition be filed, but counsel believes that such a petition would be frivolous, then counsel may move in this court for leave to withdraw from representation. Counsel's motion must state that a copy thereof was served on the client. We dispense with oral argument because

the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED